Ninety-Eighth Legislature - Second Session - 2004
Committee Statement
LB 1233

Hearing Date: February 10, 2004
Committee On: Urban Affairs

Introducer(s): (Hartnett)
Title: Change provisions for cities and villages relating to community redevelopment projects

Roll Call Vote – Final Committee Action:

	Advanced to General File
X	Advanced to General File with Amendments
	Indefinitely Postponed

Vote Results:

4	Yes	Senators Combs, Connealy, Hartnett and Janssen
	No	
2	Present, not voting	Senators Friend and Schimek
1	Absent	Senator Landis

Proponents:	**Representing:**
Senator D. Paul Hartnett	Introducer
Beth Ferrell	NACO

Opponents:	**Representing:**
Jack Cheloha	City of Omaha
Dennis J. Smith	City of Norfolk
Gary Krumland	League of NE Municipalities

Neutral:	**Representing:**

Summary of purpose and/or changes:

This bill relates to the Community Development Law (governing the use of tax increment financing), proposing to change requirements on the preparation, financing and publication of cost-benefit analyses and to restrict the use of funds generated by tax increment financing. It is applicable to cities and villages proposing to exercise the authority granted by statute to use tax increment financing.

Tax increment financing is a mechanism authorized for use by cities and villages to rehabilitate substandard and blighted properties within their boundaries.

First authorized by constitutional amendment in 1978, it permits cities and villages to declare property as "substandard and blighted" according to statutory definitions and then to divert (for up to fifteen years) a portion of the property tax revenue otherwise flowing to property-taxing political subdivisions for the retirement of debts incurred by the city (or community redevelopment authority) for the rehabilitation of the property.

Tax increment financing (as authorized in section 18-2147) operates on the basis that improvements financed by the city or village will increase the tax valuation of the property to such an extent that the property taxes generated by the improvements, if applied to the debt incurred to make the improvements, would retire or repay the debt. Following the determination to apply tax increment financing to a property, the value of the property is "frozen" for property tax purposes at the level of value of the property for the prior year before improvements were made. For up to fifteen years, the taxing subdivisions will receive property tax revenue on the basis of that "before" improvement value.

After the improvements are made, the value of the property will presumably increase. The property tax revenue (at the levy rate applicable to all property in the subdivision) which is attributable to this "excess" value, the value beyond the pre-improvement year's level, is collected to retire the debt incurred by the city to make the planned improvements. When the debt is paid, all future property tax revenue reverts to the various political subdivisions as any other property.

Thus, the owner of a TIF'ed property pays the same amount in "property taxes" as any other owner of property of the same value, but the portion of the "tax" attributable to the value of the property following improvements is used to pay for those improvements.

This legislation proposes amendments to two different aspects of the tax increment financing process: the cost-benefit analysis and the use of funds generated by a tax increment financing option.

Sections 1, 2, 5, 6, and 8 contain changes which only harmonize and change references to conform to the substantive changes proposed.

Sections 3 and 4 deal with changes to the cost-benefit analysis.

When the TIF statutes were substantially reformed in 1997 by LB 875, one of the changes made was to require cities to conduct a cost-benefit analysis of a proposed TIF project to determine if it would have a net beneficial impact on the city (see page 10, lines 2 to 21), not only in terms of economic activity, but also balancing the impact of lost tax revenue. The cost benefit analysis was to be conducted by means of an economic model developed for local projects.

The proposed changes would require that the analysis be conducted by an independent third party who does not possess any financial interest in the proposed project or the project area (as opposed to the city itself or the developer). The cost of conducting the study would be borne by the city or the community redevelopment authority but it could be reimbursed from TIF funds if the project was approved (section 3, page 10, lines 22 to 28).

Additionally, in the annual report filed by each city with the property tax administrator regarding TIF activity in the city, the report would now be required to include a copy of any cost-benefit analysis developed pursuant to the prior section

(section 4, page 11, lines 27 to 28). This does not mean that the state would be authorized to approve the analysis; it would merely provide more public notice and a central source of information on the status of TIF projects in the state.

Sections 7 and 9 deal with the restrictions on TIF funds which are implicit in the constitutional authorizing provision and which need to be made explicit in statute.

Currently, two practices are being used by cities and community redevelopment authorities to use TIF funds for general economic development efforts. In some instances, a designated percentage of TIF funds are taken by the city or CRA "off the top" for activities unrelated to the property generating the funding and which do not involve direct improvements to the property or the area. Additionally, instead of using TIF funds for paying off a debt, a portion of the TIF proceeds are "loaned" to the developer of the property. These loans are repaid to the city or the CRA who then uses these repayments for other economic development projects (notwithstanding the fact that these repayments actually constitute a recovery or recapture of tax revenue lost by other political subdivisions through the use of TIF).

In section 7 (which amends the basic statutory authorization for the use of TIF) it is stated explicitly that the funds generated by TIF can only be used to financing the redevelopment project "serving the real property subject to" the ad valorem tax which is paying for the project. In other words, the funds can only be used to serve the property which generates them.

Additionally, if the funds generated by TIF are distributed in the form of a loan by the authority to anyone conducting the redevelopment project, the repayments on the loan are to be distributed to the property taxing political subdivisions in proportion to their levy on the property in the year in which the repayments are received.

Finally, in section 9, it is made explicit that no funds generated by TIF may be used for any purpose "not directly related to the conduct of the redevelopment project from whose area such funds were generated" and the authorization for a city or CDA to recover their costs from administering or authorizing a TIF project is limited to their direct costs from the project from whose area such funds were generated.

In section 11, section 18-2147.01 is repealed outright. This section dealt with the use of a state model and the assistance program created to support it, both of which no longer exist.

Explanation of amendments, if any:

The committee amendments change the proposed amendment in section 3 of the bill (to Sec. 18-2113) which currently limits the authorization as to who may conduct the TIF cost/benefit analysis. In the green copy, the authorization extends only to independent (non-interested) third parties.

The committee amendments would broaden the authorization to include staff members (employees) of the city.

Senator D. Paul Hartnett, Chairperson